

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DONNIE LEE ROBERTS,

§

Petitioner,

§

vs.

§

No. 1:09cv419

RICK THALER, Director,

§

Texas Department of Criminal Justice,
Correctional Institutions Division,

§

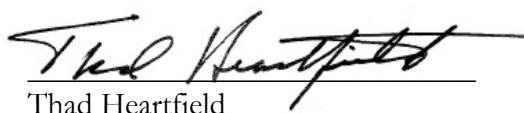
Respondent.

ORDER DENYING *PRO SE* MOTION

This matter comes before the Court on petitioner Donnie Lee Roberts's ("Roberts's") letter to the Court dated August 29, 2010, which included several other documents. Roberts asked the Court to "please consider sending my case back to state court." The Court construes Roberts's request either as a motion to transfer his case, or as a motion to stay and abate his federal proceedings so that he can return to state court, in order to raise several claims which were not raised by either his appellate counsel or by his state post-conviction counsel.

Roberts is currently represented by counsel in this case. In *habeas corpus* proceedings an inmate may represent himself, or he may be represented by counsel, but by accepting the assistance of counsel the inmate waives his right to file *pro se* motions. *Cf. Myers v. Johnson*, 76 F.3d 1330, 1335 (5th Cir. 1996). Accordingly, Roberts's *pro se* request that the Court transfer or stay and abate his case is DENIED.

SIGNED this the 13 day of September, 2010.



Thad Heartfield
United States District Judge